On June 15, 2023, we celebrated the third anniversary of the monumental Supreme Court opinion in the case of Bostock v. Clayton County, Georgia. This opinion held that Title VII's prohibition against sex discrimination includes sexual orientation and gender identity. While the case centered on employment discrimination, the decision had significant implications for fair housing.

Within one week of the Court's decision, the North Dakota Department of Labor and Human Rights (NDDOLHR) began accepting and investigating complaints of discrimination based on sexual orientation and gender identity in all areas it oversees. This includes employment, public services, public accommodations, and credit transactions and housing.

Like NDDOLHR, HUD's Office of Fair Housing and Equal Opportunity issued a memorandum on February 11, 2021, titled "Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act." which addresses discrimination because of actual or perceived sexual orientation and gender identity under the Fair Housing Act. This memorandum addresses discrimination based on actual or perceived sexual orientation and gender identity under the Fair Housing Act. HUD states that it will conduct all activities involving the application, interpretation, and enforcement of the Fair Housing Act's prohibition on sex discrimination consistent with the Bostock decision.
Here are examples of housing discrimination based on sex, including actual or perceived gender identity and sexual orientation:

- A realtor refuses to show houses listed for sale to a potential buyer because the buyer is transgender.
- A housing provider refuses to rent a house to a same-sex couple due to their "family composition" being two individuals of the same sex rather than opposite sexes.
- A maintenance worker employed by a housing provider subjects a female tenant to pervasive harassment because she is a lesbian. Additional discrimination occurs when the tenant reports the harassment, and the housing provider fails to take any action.
- A tenant is evicted after the housing provider discovers the tenant has dated persons of the same sex and identifies as bisexual.
- A same-sex couple asks a realtor to see rental units throughout the city but is only shown rental units in a part of the city known for having many LGBTQ residents.
- A building manager refuses to authorize repairs to a tenant’s unit after observing the tenant’s teenage daughter holding hands with her girlfriend. The manager explained that he does not agree with the teenager’s “homosexual lifestyle” and that the tenant will need to make the repairs himself.
- The leasing manager at a 55+ community rejects a male tenant’s request to add his same-sex partner to his lease, stating in writing that the community only accepts married couples in unions between "one man and one woman."

It's important to note that housing discrimination against individuals identifying as LGBTQ may also occur due to, or in addition to, other characteristics protected by the Fair Housing Act, such as race, national origin, color, religion, disability, and familial status. Examples of this discrimination can include:

- A landlord or housing provider of a covered dwelling to deny housing because of actual or perceived HIV/AIDS status.
- A housing provider refusing to rent to an otherwise qualified LGBTQ family with children under age 18.
Below are a few case stories highlighting how we have helped our clients in the last few weeks through our intake process:

**Race/National Origin and Public Assistance Discrimination:**

Complaint filed by a client alleging discrimination based on race/national origin and receipt of public assistance. The client was evicted for nonpayment of rent after the housing provider refused to accept the client's ND Rent Help assistance. NDDOLHR determined reasonable cause related to public assistance. The housing provider settled the complaint prior to court, with the client receiving an undisclosed settlement amount.

**Reasonable Accommodation for Disability:**

Complaint filed by a client alleging denial of a reasonable accommodation for a reserved parking space needed due to disability. The complaint was conciliated at ND Department of Labor and Human Rights. The client received a designated, reserved parking space. The property management underwent fair housing training and distributed information to tenants. The management agreed to create a curb cut on the sidewalk route to the dumpster for improved accessibility. Ongoing monitoring and repair of sidewalks for hazardous conditions were implemented.

**Discrimination Based on Disability and Sexual Orientation:**

Complaint filed by a client alleging differential treatment based on disability and sexual orientation. The client claimed denial of a reasonable accommodation for an assistance animal, as well as harassment, unequal terms, and fines. The complaint was conciliated at ND Department of Labor and Human Rights. The client received a waiver of 14 months of monthly condo fees. Remedies in the public interest were implemented.

**Discrimination Based on Family Size:**

A client received a nonrenewal of her lease after reporting the birth of her fifth child. HPFHC assisted with a HUD complaint. The complaint was conciliated for $100,000 and remedies in the public interest. Remedies included fair housing training for management, distribution of fair housing resources to tenants, and policy changes at the housing provider’s properties.
Retaliation and Extra Terms on Reasonable Accommodation:

Complaint filed by a client alleging extra terms and conditions on a reasonable accommodation request for assistance animals. The client claimed retaliation for taking action against management. The complaint was conciliated at ND Department of Labor and Human Rights. The client received $4,600 in settlement. Management was required to attend fair housing training and update reasonable accommodation forms and policies.

Reasonable Accommodation for Injury:

HPFHC assisted a client with a reasonable accommodation request to exit a lease without penalty. The client had sustained injuries in a motor vehicle accident, making it impossible to continue residing at the property.

Assistance Animal-Related Fees:

HPFHC assisted a client in requesting the removal of previously assessed fees related to their assistance animal.

Reasonable Accommodation for Accessibility:

HPFHC advocacy resulted in a client being granted a reasonable accommodation to receive lease documents in paper form due to their disability preventing access to technology.
Below is a selection of filed organizational complaints and lawsuits:

**HPFHC vs. Grandview 1 Apartments, LLC / Goldmark Property Management, Inc.:**
HPFHC filed a complaint alleging an undue burden created by the respondents' policy for applicants and tenants with disabilities. The complaint conciliated with no admission of guilt for $1,500. Remedies in the public interest included tenant notification of fair housing rights and attendance of fair housing training.

**HPFHC vs. Cedars at Brandt Crossing, LLC and Prairie Property Management of Fargo-Moorhead, Inc.:**
HPFHC filed a complaint alleging an undue burden created by the respondents' policies for applicants and tenants with disabilities. The complaint conciliated with no admission of guilt for $2,500. Remedies in the public interest included tenant notification of fair housing rights and attendance of fair housing training.

**HPFHC vs Northwood Commons, LLC and Hegenes Apartment Management, Inc.:**
HPFHC filed a complaint alleging discrimination based on disability status and refusal to make reasonable accommodations. The complaint conciliated with no admission of guilt for $1,750. Remedies in the public interest included tenant notification of fair housing rights and attendance of fair housing training.

**HPFHC vs ASA Property Management, Inc.:**
HPFHC filed a complaint alleging discriminatory terms, conditions, or privileges for applicants and tenants with disabilities. The complaint conciliated with no admission of guilt for $2,000. Remedies in the public interest included tenant notification of fair housing rights and attendance of fair housing training.

**HPFHC vs Calkota Properties:**
HPFHC filed a complaint based on discriminatory advertising denying housing to potential tenants receiving public assistance. The complaint conciliated without admission of guilt for $1,000. Remedies in the public interest included tenant notification of fair housing rights and attendance of fair housing training.
HPFHC vs. Old Town Investments, LLC and TruHome, LLC:

HPFHC conciliated an organizational case against Old Town Investments, LLC for blocking tenants with assistance animals based on a tenant's reported allergy. HPFHC found that management failed to engage in an interactive process and effectively denied the civil rights of tenants with assistance animals. The case conciliated with no admission of guilt for $2,700. Remedies in the public interest included tenant notification of fair housing rights and attendance of fair housing training.
Tenant with Support Dog States Reasonable Accommodation Claim against Owner of Rental Property

Ashley McClendon sued landlord Peter Bresler after he denied her housing application due to her support dog. Initially, the district court ruled in favor of Bresler, stating a lack of evidence regarding his knowledge of McClendon's disability. However, on appeal, it was determined that Bresler should have known about the disability based on the language used in correspondence. On remand, Judge R. Gary Clausner entered summary judgment in favor of McClendon, finding Bresler in violation of the Fair Housing Act and the California Fair Employment and Housing Act for failing to provide reasonable accommodations and for negligence. This case underscores the importance of accommodating individuals with disabilities in housing and preventing discrimination based on disability. [McClendon v. Bresler, No. 2:20-cv-07758, 2023 U.S. Dist. LEXIS 57190 (C.D. Cal. March 30, 2023)]

Man with Support Dog States Disability Discrimination Claim

David Wallace, a man with disabilities who relied on an assistance dog for emotional support, filed disability discrimination claims against his landlord, Shadowwood LLC. After an altercation involving Wallace's dog and another dog, Shadowwood demanded that Wallace remove his dog from the premises within seven days, despite a letter requesting accommodation. Wallace was later hospitalized, and during his absence, Shadowwood posted a 30-day notice to vacate his home. Wallace alleged that Shadowwood violated the Fair Housing Act by making his dwelling unavailable due to his disability and by failing to provide a reasonable accommodation. The district court denied Shadowwood's motion to dismiss, stating that Wallace had plausibly alleged discrimination and the need for accommodation, as he was forced to choose between his home and his assistance animal. [Wallace v. Carefree Shadowwood, No. 8:22-cv-2329, 2023 U.S. Dist. LEXIS 64360 (M.D. Fla. April 12, 2023)]

Plaintiff States National Origin Claims

Eva Xia and Paul Privitera applied to purchase an apartment in a cooperative building in New York City owned by the New York Housing Development Fund Corporation. However, their application was denied by the cooperative board, leading Xia and Privitera to sue the corporation and board members, alleging discrimination based on Xia's Chinese-American national origin. The defendants filed a motion for summary judgment, which was denied by District Court Judge Edgardo Ramos. While the defendants provided non-discriminatory reasons for the denial, such as application errors and financial eligibility concerns, Judge Ramos ruled that genuine issues of fact remained, making summary judgment inappropriate. [Xia v. 65 W. 87th St. Housing Development Fund Corporation, No. 20 Civ. 03576, 2023 U.S. Dist. LEXIS 57132 (S.D.N.Y. March 31, 2023)]
Recent Settlement in Familial Status Case
Vasona Management Company has agreed to pay $3 million as part of a consent decree to settle a familial status lawsuit filed by the California Department of Fair Employment and Housing. The lawsuit alleged that Vasona and the owners of over 48 complexes discriminated against families with children by imposing restrictions on outdoor play activities and requiring constant parental supervision in common areas for children under the age of 14. In addition to the monetary damages, the defendants have committed to revising their policies and procedures to prevent future discrimination, informing tenants of their rights, and providing fair housing training to employees. The settlement aims to address the harm caused and promote fair treatment of families with children. [Department of Fair Employment and Housing v. Vasona Management Inc., No. RG20078727 (Cal. Sup. Ct. Feb. 14, 2023)]
Upcoming FREE Trainings

Click here to access our Eventbrite Page
and register for upcoming events

**Upcoming Free Webinars:**

Disability Protections in Housing - Your Fair Housing Rights
10/5/2023 12:00 - 2:00 pm CST
[https://www.eventbrite.com/e/673484890437](https://www.eventbrite.com/e/673484890437)

Fair Housing Rights for Renters
11/2/2023 12:00 - 2:00 pm CST
[https://www.eventbrite.com/e/673509323517](https://www.eventbrite.com/e/673509323517)

Fair Housing means you have the right to obtain housing within your financial means of your choice regardless of your race, color, national origin, religion, sex, disability status, or because you have children, and in North Dakota, because you receive public assistance, are over 40, or your marital status.

Please contact us if we can be of assistance:
701-792-2878 or info@highplainsfhc.org
What happens when you call High Plains Fair Housing Center?

High Plains FHC is different from a state FHAP agency in that we are a private nonprofit organization who receives federal grants as a Fair Housing Initiative program (FHIP) to assist people who believe they are victims of housing discrimination. When you or someone on your behalf calls our office, we have a separate intake process from the HUD complaint intake process. We will ask you about your experience and other questions to determine if what you are experiencing is suspected housing discrimination. Client confidentiality is very important to us and at no point will we contact others involved or file a complaint on your behalf without your explicit permission. In many cases, we assist our clients by advocating on their behalf to their landlord and in other instances we may advise you to file a housing discrimination case with HUD or the NDDOLHR. Some people do not want to file or have us advocate for them, but just want to make us aware of a discriminatory practice they see with their housing provider. We can investigate those claims further and file a complaint as an organization if our investigation shows discriminatory actions or policies. Even in this case, we still value client confidentiality and will not involve you in the complaint unless you choose to be.
The mission of High Plains Fair Housing Center is to strengthen communities and ensure equal access to fair housing in the region through training, education, enforcement, and advocacy.

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